

Chip Keating
Secretary of Public Safety



J. Kevin Stitt
Governor

January 10, 2020

Governor J. Kevin Stitt
State of Oklahoma
Oklahoma Capitol
Oklahoma City, OK 73105

Dear Governor Stitt:

I am pleased to submit to you an initial report of the Criminal Justice Reentry, Supervision, Treatment and Opportunity Reform Task Force pursuant to Executive Order 2019-22.

While far more work remains to be completed, this Report contains the recommendations of the Task Force to date and are recommended to you, lawmakers, officers of the Court, and to our fellow citizens for thoughtful consideration and disposition.

The cooperation, dedication and hard work of the members of the Task Force and its committees has been inspiring. They are proof that knowledgeable, passionate people from seemingly very different and opposing positions can, when given the opportunity, work together as Oklahomans first to find solutions to complex problems. I am grateful for their example and our State is better off for it.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "C. Keating".

Chip Keating

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Secretary of Public Safety



J. Kevin Stitt
Governor

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Governor J. Kevin Stitt
Oklahoma Capitol
Oklahoma City, OK 73105

Dear Governor Stitt:

I commend your vision and dedication to Criminal Justice Reform in Oklahoma. The criminal justice system effects all aspects of the State and without proper comprehensive changes, Oklahoma will not improve incarceration rates, public safety, health ratings and the workforce.

This first phase of effort brought together agencies from all branches of Government, victim and survivor representation, someone with personal knowledge of the system and diversion options. Criminal Justice Reform is Cultural Community Reform and we have intertwined the lifespan of those incarcerated to understand how we can prevent, train, treat and reduce barriers to creating competent citizens.

Should we be given the next phase we will use the subject matter experts brought together to recommend well-vetted opportunities for not only change today, but also long term cultural changes, making Oklahoma one of the top States in Criminal Justice Reform.

I am grateful to all the members, committees and the countless justice- affected people who took their time to come to the table and educate us all on how our decisions impact society as a whole.

Sincerely,

A handwritten signature in blue ink that reads "Tricia Everest".

Tricia Everest

Deputy Secretary of Public Safety and
Designated Chair of the RESTORE Task Force

INITIAL REPORT OF THE CRIMINAL JUSTICE RESTORE TASK FORCE

The Criminal Justice RESTORE Task Force was created by Executive Order 2019-22 and charged with studying our criminal justice system and developing proposals to improve the system consistent with the following priorities:

1. Protect lives and property;
2. Respect and support victims of crime;
3. Deter criminal activity;
4. Enhance and establish diversion programs, including alternative sentencing, supervision, and treatment options for defendants who commit drug related crimes;
5. Reduce recidivism through expanded and enhanced post incarceration supervision and opportunities that foster successful reentry into society;
6. Reduce Oklahoma's incarceration rate and associated costs consistent with these goals; and
7. Improve any other aspects of Oklahoma's criminal justice system.

The Task Force believes there is an unprecedented opportunity for comprehensive improvement to our criminal justice system.

Initially, previous criminal justice reform efforts were discussed and efforts were made to identify and avoid any pitfalls. Some have criticized recent reform efforts for being too offender-oriented and for failing to work with all stakeholders to find a balanced, fair policy position. With this in mind, the Task Force undertook the arduous task of leaving no stone unturned when it comes to studying true criminal justice reform.

We found that the key to any meaningful effort is to explore our criminal justice system from multiple perspectives. Therefore, RESTORE sought out and listened to scores of individuals who have been affected by or who are a part of our criminal justice system. RESTORE has visited at length with numerous offenders as well as numerous crime victims and survivors. The perspectives of both defense attorneys and prosecutors were sought from the outset. The structure and format of this Task Force as

established in Executive Order 2019-22 has made bringing together such diverse perspectives possible. We believe that difficult differences in opinion can be worked out if approached collaboratively.

We determined that simply seeking to reduce Oklahoma's incarceration rate, particularly by focusing on narrowly tailored initiatives, without an accurate and thorough sense of context, would doubtless result in reforms of very limited benefit at best or destructive and dangerous policies at worse. We generally believe that sound policies will naturally reduce Oklahoma's rate of incarceration. Sound policy neither favors offenders nor victims nor simply seeks to reduce the cost to taxpayers but must always seek to achieve justice. Oversimplifying the discussion and consideration of victims, the types of offenders, causes of criminal activity, the nature of crimes and criminals, punishment, sentences, accepting responsibility, paying one's debt to society and so on is unproductive and would result in a report comprised of sound bites of little or no value.

The RESTORE Task Force endeavors to vet its findings and recommendations with key constituencies such as victims, offenders, prosecutors and defense attorneys to ensure that what is believed to be a good idea by one group does not disproportionately impact another negatively. This approach has made our task exponentially more challenging but also far more worthwhile and is why the first recommendation of RESTORE is to extend the Task Force for one additional year. Granting this extension will provide sufficient time to further explore, develop and refine the more complex ideas. To do right by the committee members, victims, offenders and the taxpayers, more work is needed.

In keeping with the task outlined in the Executive Order, RESTORE has endeavored to avoid easy solutions and quick fixes and our work has not been limited to simply developing recommendations for legislation. The challenges in our criminal justice system are far too numerous and complex for such limited approaches.

It has not been uncommon for committee meetings to last several hours as committee members listened to compelling testimony and asked sincere, probing questions. Hundreds of pages of notes have been taken by Task Force and committee members. Our intent is to now turn those notes into action items.

If RESTORE is given more time, it is anticipated that a new committee structure will be created to facilitate the next phase of our work. The findings from the new

committees will be considered by the Task Force which will formalize recommendations and plans for future submission to the Governor and Legislature.

The RESTORE committees and subcommittees met more than 37 times and listened to the compelling stories of more than 95 people, ranging from not only experts in the fields of criminal justice but also individuals impacted by the criminal justice system, including survivors, crime victims and families. When we incarcerate one individual we are affecting whole families.

Public safety is the first responsibility and priority of government. Oklahoma's criminal justice system should discourage criminal activity and create diversion programs and treatment option available throughout the state.

The vast majority of offenders who are sentenced to prison in Oklahoma will be released at some point. We have the opportunity to make a positive impact on lives and create systems that no longer are barriers to the success of individuals. It is our intention to create policies and laws that are transparent, equitable, and easily understood by all stakeholders. When someone is sentenced we want to know their plan of reentry into their community from the day of reception.

The RESTORE Task Force recognizes true reform will not take place if the root causes of criminal behavior are not dealt with. Throughout our meetings, a recurring theme is that society must recognize that prevention is key. For instance, bail reform reduces immediate costs and barriers, but it doesn't address the underlying reasons an individual entered the justice system. Further, to enact true reform, we need to not only focus on reducing incarceration, but also preventing childhood trauma and adverse childhood experiences.

While a more in depth forward looking plan is being created, the Task Force recommends the following for the 2020 Legislative Session:

I. Policy Changes

a. Sentencing and Bail Reform

The Sentencing Committee of the RESTORE Task Force has worked cooperatively with the Criminal Justice Reclassification Coordination Council.*¹ It has proven

¹ The Council was created in 2018 by Senate Bill 1098 and is codified at 22 O.S. § 1701 (OSCN 2019).

beneficial that a half-dozen individuals serve on both entities and continue to work extraordinarily hard on this complex and critically important policy priority.

The unsuccessful effort in the mid-1990s to create a sentencing matrix is a cautionary note. It has taken 25 years to be at a point where comprehensive reform is again possible. We must approach sentencing through a thoughtful and cooperative manner.

Any effort to improve Oklahoma's sentencing laws must have as one of its chief goals achieving a high degree of certainty and predictability regarding the amount of time to be served by offenders. Victims, offenders, prosecutors and defense attorneys, and the public all want and deserve certainty and transparency when it comes to sentencing. There are a number of possible ways of doing this deserving of more thoughtful consideration.

There are roughly 1,100 felony crimes in statute scattered through more than 50 of the 93 titles of law. It has been pointed out that Oklahoma has established in statute more crimes than any other state. There are a number of state crimes under which nobody is ever convicted or sentenced. So, one consideration should be how best to simplify the criminal code while keeping in mind that too many classifications would likely result in a complex sentencing framework possibly resulting in negative, unintended consequences. Alternatively, there is a recognition that too few classifications will likely result in counterproductive oversimplification.

It would be a mistake to make any significant changes to our criminal code without thoroughly and thoughtfully considering both the positive and potentially negative effects. There are innumerable variables and considerations. Many are matters of degree. How much discretion should judges and juries have? To what extent should the wishes of victims be considered? Numerous statutory definitions like that for great bodily injury are vague and insufficient and should be addressed—each instance deserving of careful research and consideration. How can specialty courts be better used or expanded and how should that effect sentencing? How should current or anticipated resources be taken into account when considering what constitutes an appropriate sentencing structure? How can our criminal code be modified to promote offenders seeking treatment services? How can we plan for and best address the inevitable outlier cases without them prompting reactionary amendments?

b. Bail and Pre-Trial Detention

Generally, the purpose of bail is to protect public safety and ensure the presence of an individual in court. It was suggested that the three chief considerations in determining pretrial release should be maximizing public safety, maximizing release, and maximizing court appearances.

A significant number of accused individuals remain in jail for weeks, months and, in some cases, as long as a year or more because of their inability to post bail. The Task Force heard that some accused individuals who remain confined in jail because of an inability to bond out of jail will plead guilty because doing so results in their release from jail. It is clear that the current bail system needs to be scrutinized further.

The inability of an accused individual to quickly post bail or bond out of jail diminishes their ability to mount a legal defense, which also diminishes their negotiating position. In addition to the pressure and lack of access to resources from being confined to jail, an accused individual is unable to attend substance abuse classes or treatment, mental health treatment, acquire or maintain employment, or provide for and care for their family. An accused individual who has the resources that allows them to be quickly released from jail can demonstrate that they are a productive citizen.

The Task Force recommends that policies and procedures be implemented to facilitate the responsible release of accused individuals from jail within 48 hours. A number of counties are implementing pilot programs including seven day a week initial appearances, and releasing individuals after booking on failure to pay warrants. We therefore recommend looking into not only statutory options, but also public-private partnerships that can further the ability for individuals to be released quickly so they can get back to their families and back to work.

c. Alternatives to Monetary Bail

The Task Force recommends that alternatives to monetary bail be researched, evaluated and, for those solutions determined to be cost-effective, implemented. The largest counties in the State are engaged in pilot programs that will be studied for their results. Oklahoma County by District Court order and through an amnesty program with OKC Municipal Court is no longer holding anyone in detention for failure to pay.

It is also recommended that real-time tracking technology suitable for this purpose be developed and deployed as an alternative to bail for accused individuals lacking the necessary monetary resources to post bail or bond out of jail.

II. Pipeline to Prison

ACEs Trauma and Family Dynamics

Trauma-informed care for children in the foster care and juvenile justice systems is a critical component in any serious effort to reduce involvement in the criminal justice system and incarceration.

Incarceration of a parent is only one of the adverse experiences children in Oklahoma face. Underlying trauma and dysfunction must be appropriately addressed to keep Oklahoma children from entering the pipeline to prison. According to Dr. Chan Hellman from OU-Tulsa, we need to recognize that adverse childhood experiences may be mitigated if we create pathways for children to find hope. The Task Force heard from other organizations throughout Oklahoma who are becoming trauma-trained to better understand and apply best practice therapeutic assistance and mentorship. When we recognize and treat trauma in children we create pathways for productive, healthier lives.

III. Prison Culture

Cultural Change

The Task Force recommends creation of an accredited seminary or Bible college program in our corrections system. Funding for this program will be raised by leveraging private donors who are interested in bringing this type of positive change to Oklahoma's prisons. The Task Force understands that efforts are currently underway to raise funding for such a program in Oklahoma, which it endorses, and recommends that state leaders and the Department of Corrections encourage these efforts. It is recommended that both a male and a female facility be selected for this purpose, preferring facilities with the hardest populations and where inmates have longer sentences. Similar programs in other states have successfully trained inmates to be

counselors to their fellow inmates, which has in turn decreased violent crime and given inmates something positive to work towards within the prisons.

We recommend the creation of a Chief Cultural Officer within the Department of Corrections. The position is proving to be critical in the private sector and could be a pivotal role going forward.

IV. Re-Entry

It is strongly recommended that planning for an offender's release begin in earnest no later than the day he or she enters the prison system. Ideally it should begin earlier. The Task Force supports evidence-based programming in employment, housing, treatment, and transportation for medium to high risk individuals returning to the community from incarceration. There are limited resources to assist individuals with the myriad issues that they will face when returning home. The transition fairs should be a permanent program to continually bridge the community resources and Department of Corrections and similar for those leaving county jails. It is our recommendation inmates will leave prison with at minimum a state-issued ID, job prospects and a place to live.

V. Technology

The Task Force recommends bringing together State agencies and public-private partners to expand on pilots using technology in rural counties to connect individuals with mental health professionals, supervision and probation services.

We recommend that either public or private funds, or both, be raised to pay for an in-depth study of Oklahoma's offender population. There is a frustrating lack of basic data that is reasonably necessary to accurately identify problems and solutions related to the pipeline, prison management, programming, and reentry.

When the Offender Management system is implemented, statewide baseline standards for data collection should be created to allow for later accountability measures and outcome comparison. Additionally, when the new offender management system becomes operational we will have greater offender accountability and efficiency of services. Coordination of government services, law enforcement, judiciary, and private and public services will be functional and effective in producing competent tax paying citizens.

Conclusion

The RESTORE Task Force respectfully requests a one year extension so we can finish the work we've started. We spent six months gathering detailed information and recommendations and want the momentum to continue as we enter into the detailed phase of our work. We plan to issue recommendations throughout the coming year as they are finalized.

“It has been an honor to be on the Restore Task Force. What separates this Task Force from others is the willingness to hear from everyone. We have heard from crime victims, inmates, parolees, Corrections and Pardon and Parole employees, prosecutors, individuals with substance abuse issues and countless others. These diverse viewpoints help us to identify countless issues and solutions that benefit everyone and significantly improve our criminal justice system. It is clear to me the Governor and Secretary Keating put together a great group of people on the task force who want to get something done and not just create a report that will gather dust on a shelf like so many others have over the years.”

—Robert Ravitz, Chief Public Defender, Oklahoma County

“As a public safety servant for over 30 years I have long yearned for a comprehensive approach to our criminal justice system. The RESTORE task force is exactly what our state needs to address the complexities associated with incarceration, victimization, rehabilitation, and restoration. We have made great strides in a very short period of time. By extending our task force’s mission the Governor recognizes that the long term benefits of a comprehensive approach is crucial to the protection of our communities. I look forward to continuing that effort with my fellow task force partners.”

—Steve Kunzweiler, Tulsa County District Attorney

“This problem has been in existence for years. Though criminal justice has begun to change, there is still much to address and be accomplished. There will be many benefits for this task force to continue to meet.” —Rhonda Bear

Executive Order 2019-22 Amended



J. Kevin Stitt
Office of the Governor
State of Oklahoma

FILED

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OKLAHOMA SECRETARY
OF STATE

**EXECUTIVE DEPARTMENT
AMENDED EXECUTIVE ORDER 2019-22**

I, J. Kevin Stitt, Governor of the State of Oklahoma, pursuant to the power and authority vested in me by Sections 1 and 2 of Article VI of the Oklahoma Constitution, hereby order the formation of the Criminal Justice Reentry, Supervision, Treatment and Opportunity Reform Task Force until January 31, 2020.

The Task Force shall study, evaluate, and make recommendations regarding policies, programs and proposed legislation that will:

1. Protect lives and property;
2. Respect and support victims of crime;
3. Deter criminal activity;
4. Enhance and establish diversion programs, including alternative sentencing, supervision, and treatment options for defendants who commit drug related crimes;
5. Reduce recidivism through expanded and enhanced post incarceration supervision and opportunities that foster successful reentry into society;
6. Reduce Oklahoma's incarceration rate and associated costs consistent with these goals; and
7. Improve any other aspects of Oklahoma's criminal justice system.

The Task Force shall submit to the Governor, the President Pro Tempore of the Oklahoma Senate, the Speaker of the Oklahoma House of Representatives, the Minority Leader of the Oklahoma Senate, and the Minority Leader of the Oklahoma House of Representatives a report on or before January 10, 2020, detailing its findings and recommendations.

The Task Force shall be composed of fifteen (15) members determined as follows:

1. The Secretary of Public Safety or designee;
2. The Oklahoma Attorney General or designee;
3. The Speaker of the Oklahoma House of Representatives or designee;
4. The President Pro Tempore of the Oklahoma Senate or designee;
5. The Director of the Oklahoma Department of Corrections or designee;
6. The Commissioner for the Oklahoma Department of Mental Health and Substance Abuse Services or designee;
7. A District Attorney selected by the Secretary of Public Safety;
8. A crime victims advocate selected by the Secretary of Public Safety;

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9. The Administrative Director of the Administrative Office of the Courts or designee;
10. The Executive Director of the Oklahoma Office of Juvenile Affairs or designee;
11. The Director of the Oklahoma Department of Human Services or designee;
12. A County Sheriff selected by the Secretary of Public Safety;
13. A licensed attorney with criminal defense experience selected by the Secretary of Public Safety;
14. Someone with demonstrated knowledge of successful diversion programs selected by the Secretary of Public Safety; and
15. A member of the Oklahoma Pardon and Parole Board selected by the Secretary of Public Safety.

The Secretary of Public Safety or designee shall serve as the Chair of the Task Force and shall have the authority to create committees and name committee chairs to facilitate the work of the Task Force and shall have the authority to appoint Task Force members and non-members to serve on committees. The Task Force shall meet as often as deemed necessary by the Chair allowing for timely completion of its work. A majority of the members shall constitute a quorum for the purpose of conducting the business of the Task Force. Members, including those appointed to committees who are not members of the Task Force, shall serve without compensation.

The Office of Management and Enterprise Services shall provide staff and administrative support for the Task Force. All Executive departments, officers, agencies, and employees of the State shall cooperate with the Task Force, including providing any information, data, records, and reports as may be requested.

This Executive Order shall be distributed to each member of the Task Force specifically identified herein and to each person appointed to a Task Force committee and to the Minority Leader of the Oklahoma Senate and the Minority Leader of the Oklahoma House of Representatives.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 5th Day of December, 2019.

BY THE GOVERNOR OF THE STATE OF OKLAHOMA



J. KEVIN STITT

ATTEST:

